

Burrage v. U.S., --- U.S. --- (2014)
Decided January 27, 2014

FACTS: On April 15, 2010, a long time drug user, died following an extended drug binge. Starting the day before, he had started with marijuana, moved on to injecting crushed oxycodone, and then met Burrage and purchased heroin. Banks' wife found him dead the next morning. A search of the couple's home revealed a variety of drugs, including heroin.

Burrage was charged with distributing heroin, and specifically with causing a death resulting from the use of the heroin. At trial, medical experts testified that multiple drugs were present in Banks' system, but only morphine (metabolized from the heroin) was above the therapeutic range. Both doctors testified that the heroin was a factor that contributed to the overall effect that led to Banks' death. Specifically, his death was attributed to "mixed drug intoxication."

Burrage argued at trial that there was no evidence "that heroin was a but-for cause of death." The Court declined to offer requested instructions to the jury which would have required the prosecution to offer proof that the heroin was the proximate cause of his death. Instead the court allowed the jury to consider the heroin to be a "contributing cause." Burrage was convicted.

Burrage appealed to the Eighth Circuit, which affirmed his convictions. Burrage requested certiorari from the U.S. Supreme Court.

ISSUE: To support an enhanced penalty under federal law, is it necessary to prove that a drug distributed by the defendant is the proximate cause of another's death?

HOLDING: Yes

DISCUSSION: Proof that an individual died – the "death result enhancement" – as a result of drug trafficking is used under federal law to increase a sentence for distribution. The Court noted that the "but-for requirement is part of the common understanding of cause" under federal jurisprudence. It agreed that "it is natural to say that one event is the outcome or consequence of another when the former would not have occurred but for the latter." When nothing says otherwise, the courts have "regular read phrases like 'results from' to require but-for causality." The Court agreed that "a phrase such as 'results from' imposes a requirement of but-for causation." Despite the prosecution's argument that "distinctive problems associated with drug

overdoses counsel in favor of dispensing with the usual but-for causation requirement,” since “addicts often take drugs in combination.”¹

The Court concluded that “where use of the drug distributed by the defendant is not an independently sufficient cause of the victim’s death or serious bodily injury,” the defendant cannot be subjected to the penalty enhancement. The Court reversed Burrage’s sentence and remanded the case for further proceedings.

¹ Statistics gathered from one federal agency suggest approximately 46% of drug overdose deaths involve combinations of more than one drug.